

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare-Khammam District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959, by Sri Yerra Pulla Rao S/o Veeraiah & Yerra Prakash Rao S/o Veeraiah R/o Gandugulapally (V) Dammamet (M), Khammam District against the orders of the Additional Agent to Government, Bhadrachalam in CMA No.30/2005 Dated:18-11-2006 – Dismissed – Orders - Issued.

SOCIAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 219

Dated:21-11-2008.

Read the following:

1. From Sri S. Appadhara Reddy, Counsel for the petitioner in Revision Petition Dt:18-12-2006.
2. Government Memo No.144/LTR2/2007 dt: 29-1-2007.
3. From the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam CMA No.30/2005 dt:23-5-2007.
4. Government Memo No.144/LTR2/2007 dt:21-8-2007 and 3-9-2007.

ORDER:

In the reference 1st read above Sri Yerra Pulla Rao S/o Veeriah and Sri Yerra Prakash Rao S/o Veeraiah, has filed a Revision Petition before the Government against the orders of the Additional Agent to Government, Bhadrachalam in CMA No.30/2005 Dated:18-11-2006 in respect of land admeasuring Acres 4.20 guntas in Sy.No.861 of Nagupalli (V) Dammamet (M) of Khammam District. The main grounds of the appellant in the Revision Petition among others are as hereunder:-

- i. Father of the petitioner purchased an extent of Acres 4.20 guntas dry land in Sy. No.861 of Nagupally Village of Dammamet (M) in Khammam District on 20-6-1962 by way of sada sale deed from the grand father of the 1st respondent i.e. Lanka Appaiah for a valuable consideration of Rs.450/-
- ii. Since the land was purchased on 12-6-1962, the Act has no retrospective operation.
- iii. Failed to see that no tribal was in possession of the land in question and the provisions of the Act has no application.

2. The brief history of the case is that, since the land in Sy. No.861, extent of Acres 4.20 cents of Nagupally Village of Dammamet (M) was in the possession of Yerra Gandhi and 2 others. The Special Deputy Collector (TW), Bhadrachalam after perusal of the records and as per the evidence placed before him held that the transfer of immovable property belonging to non-tribal petitioner was made to another non-tribe in contravention of Sub section I of Section 3 as laid in Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1/59 read with Regulation 1/70 and hence ordered ejectment of Sri Yerra Gandhi (Sri Yerra Pulla Rao and Sri Yerra Prakash Rao) or whoever is in possession of the said immovable property and directed that the immovable property be taken into Government custody and assign the same to the eligible tribals as per rules in force vide case No.135/2004/DPT, dated:20-1-2005. Aggrieved by the order of the Special Deputy Collector (TW), Bhadrachalam Sri Yerra Pulla Rao and Yerra Prakash Rao had filed an appeal before the Additional Agent to Government. The Additional Agent to Government after perusal of the material records available on the appeal, Lower Court orders, affidavit and other record put forth before him held that the appellant Sri Yerra Pulla Rao failed to establish his case in all courts dismissed the appeal vide CMA No.30/2005 Dated:18-11-2006. Aggrieved by the order of the Additional Agent to Government the petitioners filed this Revision Petition before the Government.

3. In the reference 2nd read above, stay has been granted on the orders of the Addl. Agent to Government, Bhadrachalam and the Additional Agent to Government was requested to furnish parawise remarks and case records, the same were furnished in the reference 3rd read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 31-8-2007 and finally

heard on 17-9-2007. Petitioner was absent and Counsel for the petitioner was present and submitted the written arguments.

4. Government after perusal of the records of Lower and appellate courts, grounds of the Revision Petition and arguments of the counsel for petitioner observed that:

1. The sada sale deed said to be executed on 12-6-1962 cannot be taken as an evidence of proof in the light of the judgment of the Hon'ble High Court of A.P in CRP No.1087/96, dt:10-11-1998 in the case of Bangaru Rama Thulisamma Vs Yada Mastan Reddy. Further, it is also a well settled law that right title and interest of the vendor extinguished only by executing deed of conveyance duly registered under Registration Act. Hence, the sada agreement executed on 9-5-1968 cannot be admitted either as primary or substantial evidence.
2. The corroborating evidence must support the sada agreement. The pahani is the primary evidence for deciding enjoyment of suit land. On verification of Adangals for 1967-68, 1970-71, 1973-74 to 1976-77, name of vendor i.e. Lanka Appaiah remained as pattedar and name of the petitioner did not find place in enjoyer column. If the vendee had purchased the land in the year 1962, his name would have been entered at least in the enjoyer column from 1962, which clearly goes to show that he came into possession only after regulation 1/70 came into force.
3. The Hon'ble High Court in W.P No.14138/2005 and batch of cases (Justice V.V.S. Rao & V.V. Seethapathi) held on 9-8-2007 confirmed jurisdiction of POs of ITDAs & Additional Agent to Government as appellate authority in G.O. Ms. No.193 for taking up Land Transfer Regulation
4. The Lower Court rightly observed that the suit lands was transferred in violation of Section 3 (1) (2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, read with amendment Regulation 1/70 subsequent to 3-2-1970 between the two non-tribals.

5. Government after careful examination of the case records hereby uphold the orders of the Additional Agent to Government & PO ITDA, Bhadrachalam in CMA No.30/2005, dt:18-11-2006 and accordingly dismiss the Revision Petition. The stay granted in Memo No.144/LTR-2/2007, dt:29-1-2007 is inoperative.

6. The Additional Agent to Government Bhadrachalam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,

Prl. Secretary to Government.

To

The Collector, Khammam District.

(with RPAD of the following records)

1. LTR No.135/2004/DPT CFP-104 and NFP-4 total 108 only.
2. CMA No.30/2005 CFP-90 and NFP-4 total 94 only.

The Addl.Agent to Government & PO ITDA, Bhadrachalam, Khammam.

The Special Deputy Collector (TW), Bhadrachalam, Khammam District.

Sri Appadhara Reddy, Advocate,

H.No.1-2-234/33, Plot No.20, New S.B.H Colony,
Domalguda, Hyderabad.

Sri Yerra Pulla Rao S/o Veeraiah ,

R/o Gandugulapally (V) Dammapet (M), Khammam District

Sri Yerra Prakash Rao S/o Veeraiah,

R/o Gandugulapally (V) Dammapet (M), Khammam District

Sri Lanka Venkateswarlu S/o Pitchaiah,

R/o Gandugulapally (V) Dammapet (M), Khammam District

Copy to the P.S. to M(TW&RAID).

SF / SC

// FORWARDED BY ORDER //

SECTION OFFICER